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PATENT APPLICATION

MAY - 3 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group
Art Unit: 3761

Attorney
Docket No.: 121027-091

Applicant: Kazuaki ONISHI et al.

Invention: DISPOSABLE DIAPER

Serial No: 10/054,825

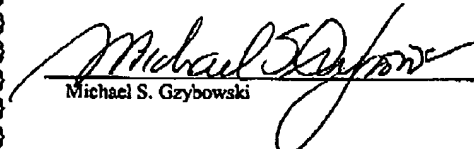
Filed: January 23, 2003

Examiner: Catharine Anderson

Certificate Less than 37 CFR 1.8(b)

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via facsimile transmission on the date indicated below.

May 3, 2006


Michael S. Gzybowski

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 CFR §1.137(a) and §1.181

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

In response to the Notice of Abandonment mailed March 16, 2006, in connection with the above-identified application, applicants respectfully petition to have the holding of abandonment in this application withdrawn.

As indicated in the Notice of Abandonment, the application was abandoned because of applicants' failure to timely reply to the Office letter mailed December 13, 2004.

Applicants submit that their failure to timely reply to the Office letter mailed December 13, 2004 was caused by the manner in which the application was handle at the U.S. Patent and Trademark Office and was unavoidable on applicants' part. The following facts are presented in

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support of applicants' submission that the timely response to the reply to the Office letter mailed November 20, 2003 was unavoidable.

1. On November 29, 2004 the file transaction history notes a Final Rejection was recorded.

2. Two weeks later, on December 13, 2004, the file transaction history notes that the Final Rejection was mailed out.

3. The undersigned received the Final Rejection on December 15, 2004.

4. On March 10, 2005 applicants filed an Amendment After Final.

5. On March 29, 2005 the Examiner mailed applicants an Advisory Action.

6. On April 12, 2005 applicants filed a Supplemental Request for Reconsideration.

7. Eight (8) months later, on January 30, 2006 the Examiner mailed applicants an Advisory Action in which the Examiner noted that the "period for reply expires 3 months from the mailing date of the final rejection.

8. During the time between April 12, 2005, and May 29, 2005 (at the end of the six-month period from the Final Rejection), the undersigned made numerous attempts to contact the Examiner to determine the status of the application, in light of the Supplemental Request for Reconsideration. However, the undersigned was unable to confirm the status of the application.

9. Subsequently, After May 29, 2005, the undersigned attempted to contact the Examiner and the Examiner's supervisor to determine the status of the application and was eventually advised shortly before the Notice of Abandonment was mailed that the application was abandoned.

10. A review of the transaction history (attached hereto as Exhibit A), indicates that, while applicants' Supplemental Request for Reconsideration was received by the Office on April 12, 2005, it was not forwarded to the Examiner until January 19, 2006 - over 9 months later.

11. It is submitted that the manner in which the application was mishandled at the U.S. Patent and Trademark Office, in spite of applicants' repeated attempts to monitor and verify the status of the application with the Examiner resulted in the unavoidable abandonment.

12. It is particularly pointed out that delays caused by the Office such as eight (8) months from receipt of a response to forwarding the response to an Examiner, sixteen (16) months from a Final Rejection to Abandonment together with the inability to provide applicants with the status of the application, severely limit an applicant's ability to take appropriate action on his or her part. For example, the Office could not even confirm the application was abandoned under sometime in March, 2006 - 16 months from when the Final Rejection was entered (which has been one of the delays in preparing the present petition).

13. It is further noted that status of the application could not be determined from the PAIR system, necessitating the undersigned's attempts to verify the status of the application with the Examiner and the Examiner's supervisor - neither of whom could verify the status of the application until March, 2006.

Based upon the above facts, the undersigned submits that applicants' failure to timely respond to the Office Action of December 13, 2004 was unavoidable.

A Request for Continued Examination (RCE) together with a Preliminary Amendment for application Serial No. 10/054,825 is being submitted herewith. This Request for Continued

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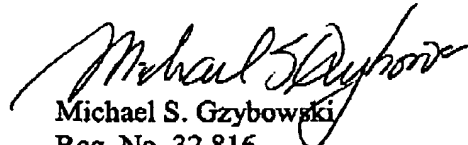
Examination (RCE) and accompanying Preliminary Amendment fulfill applicants' requirement to provide a proper response to the Office Action of December 13, 2004.

The undersigned hereby authorizes necessary fee under 37 CFR §1.17(l) of \$500.00 to be changed to Deposit Account No. 12-2136 to have this petition considered.

To the extent that the unavoidable abandonment was caused by the mishandling of the application by the U.S. Patent and Trademark Office, the undersigned requested that the necessary petition fee be waived or re-credited to Deposit Account No. 12-2136.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



Michael S. Gzybowski
Reg. No. 32,816

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Date	Contents Description
03-16-2006	Mail Abandonment for Failure to Respond to Office Action
03-13-2006	Abandonment for Failure to Respond to Office Action
01-30-2006	Mail Advisory Action (PTOL - 303)
01-26-2006	Advisory Action (PTOL-303)
01-19-2006	Date Forwarded to Examiner
04-12-2005	Amendment after Final Rejection
04-12-2005	Request for Extension of Time - Granted
03-29-2005	Mail Advisory Action (PTOL - 303)
03-28-2005	Advisory Action (PTOL-303)
03-15-2005	Date Forwarded to Examiner
03-10-2005	Amendment after Final Rejection
12-13-2004	Mail Final Rejection (PTOL - 326)
11-29-2004	Final Rejection



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